

# Session 14

## International Human Rights Bodies that Accept Complaints Submitted by Organizations or Individuals

### **OBJECTIVES:**

- To examine several UN human rights mechanisms that investigate and respond to complaints submitted by organizations and individuals.
- To practice how to write a complaint to a UN human rights monitor tasked with protecting the rights of women.

### **In This Session:**

All of the UN human rights bodies and experts rely on civil society to work with them to understand and improve the human rights situations in different countries. In addition to governments reporting on human rights in their countries, individuals and organizations submit thousands of formal and informal reports, complaints, and petitions to the UN every year. Many of the mechanisms for receiving the reports and complaints have been set up to respond to any credible report – without the complaint needing to come from a lawyer, established organization, or even a particularly literate person. A key objective of the UN human right mechanisms is to remove as many barriers as possible so that civil society can collaborate with the UN in defending human rights.

In this session, we will read brief descriptions of several UN mechanisms (treaties, commissions, offices, and experts) that work with civil society to respond to human rights abuses. They include CEDAW's Optional Protocol, the Commission on the Status of Women, the UN High Commissioner for Human Rights and the Office of the High Commissioner, and the UN Human Rights Council's "Special Procedures," which include Special Rapporteurs, Independent Experts, and Human Rights Working Groups.

Because of time and space limitations, our discussion of the human rights "Special Procedures" will be limited to the Special Rapporteur on Violence against Women, although there are dozens of other UN rapporteurs, experts, and offices to whom one might submit a human rights complaint. Some have country mandates, such as the Special Rapporteur on Iran, and others have thematic mandates, such as the Working Group on the Issue of Discrimination against Women in Law and Practice. These experts report to all the Member States of the UN and frequently approach government officials about addressing rights violations in their countries.

Communications to UN human rights bodies and experts can and should be part of international, regional, and local human rights campaigns. Copies of complaint letters sent to UN bodies and experts can also be forwarded to other human rights organizations and news agencies, as well as government officials, thus doubling and tripling their impact. For example, alerting local officials that your complaint has been shared with the UN can put additional pressure on them.

At the end of this session, we will prepare a rough draft of a human rights complaint submission to the UN Special Rapporteur on Violence against Women. The draft can be used in a variety of ways to bring attention to rights violations. Workshop participants will have the opportunity to hear each other's ideas as we develop a first draft together. It will be up to you whether you wish to create a final draft to submit to the Special Rapporteur. Hopefully, the readings and the workshop discussions will give you the inspiration and tools you need to report to local authorities or a UN expert about human rights violations you want addressed, now!<sup>83</sup>

---

### Reading Assignments:

The following selected UN human rights mechanisms are described below:

- a. The Optional Protocol for Convention on the Elimination of All Forms of Discrimination against Women CEDAW.
- b. The Commission on the Status of Women CSW.
- c. The High Commissioner for Human Rights
- d. The Human Rights Council
- e. Special Procedures of the Human Rights Council: Special Rapporteurs and Working Groups

#### **a. The Optional Protocol for Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

*As of 2015: 106 countries have made this treaty law.*

*An additional 14 countries have signed the treaty;*

*77 countries have taken no action on this treaty.<sup>84</sup>*

When a country ratifies a human rights treaty, it is committing itself to a legal responsibility to comply with the treaty's specific objectives.<sup>85</sup>

UN human rights treaties are most frequently enforced through international approbation or condemnation of a country's record of compliance.

---

83 For an overview of UN human rights monitor complaint procedures, go to <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>

84 <http://indicators.ohchr.org/>

85 Sometimes a country signs on to the creation of a treaty and then never formally ratifies it. For example, the U.S. played an active role in drafting the UN Convention of the Rights of the Child, which came into force on September 2, 1990. However, the U.S. (along with Somalia and South Sudan) has never ratified the treaty, so it is not part of U.S. law and the U.S. cannot be scrutinized by the Committee on the Rights of the Child for its non-compliance.

However, all human rights treaties are monitored by special committees or commissions composed of experts tasked with reviewing each signatory country's compliance with the treaty.<sup>86</sup>

Optional Protocols to treaties are also treaties, to be signed and ratified independently from the original treaty by Member States that have already signed and/or ratified the original. The Optional Protocol to CEDAW, adopted in 2000, gives individuals and groups of women the right to submit complaints directly to the CEDAW Committee about violations of the Convention, regardless of whether their country is up for review, when local remedies have been exhausted. Many countries that have ratified CEDAW have chosen not to subject themselves to the additional scrutiny prompted by the Optional Protocol. The CEDAW Committee will accept any complaints from individuals so long as they 1) concern a state that has ratified the Optional Protocol; 2) are not anonymous but from a clearly discernable person or organization; and 3) are in writing.<sup>87</sup>

### **(b) The Commission on the Status of Women**

The Commission on the Status of Women (CSW) served as the preparatory body for the 1995 Fourth World Conference on Women, which adopted the Beijing Declaration and Platform for Action. After the conference, the CSW was mandated by the UN General Assembly to monitor and report on the implementation of the Beijing Declaration and Platform for Action. In 2011, several UN bodies addressing women's advancement, including UNIFEM (the UN Development Fund for Women) and DAW (the UN Division for the Advancement of Women), were reorganized under the Commission on the Status of Women.

Each year the CSW holds a two-week session in New York City, attended by representatives of Member States and civil society organizations, to discuss the progress of the Beijing Declaration and Platform for Action worldwide. The reports and findings from these meetings are forwarded to the UN Economic and Social Council (ECOSOC).<sup>88</sup> Any individual, NGO, group or network may submit communications to the CSW on alleged violations of human rights that affect the status of women in any country.<sup>89</sup>

### **(c) The UN High Commissioner for Human Rights**

The UN High Commissioner for Human Rights is responsible for coordinating human rights advocacy throughout the UN system and serves as an international spokesperson for the UN's efforts to press for human

86 See Appendix F for a list of **Human Rights Committees that monitor human rights treaty compliance**.

87 For additional information about the CEDAW Optional Protocol complaints procedure, go to <http://www.un.org/womenwatch/daw/cedaw/oprulesofprocedure.html>

88 ECOSOC is the UN's principal body for coordination, policy review, policy dialogue, and recommendations on economic, social, and environmental issues, as well as for implementation of the internationally agreed development goals. ECOSOC is made up of 54 states' representatives who are elected for three-year terms by the General Assembly.

89 For more information about the CSW and how to submit a complaint, visit: <http://www.unwomen.org/en/csw/communications-procedure>.

rights globally. The High Commissioner's power rests in her or his ability to raise the profile of specific human rights crises and to promote the importance of protecting human rights generally. On its website, the Office of the United Nations High Commissioner for Human Rights (OHCHR) describes its methodology: "Through advocacy, monitoring, and training activities, [the OHCHR] contributes to legislative and policy reforms to increase accountability for human rights violations and advancing human rights."<sup>90</sup>

The OHCHR, and its thousands of employees in New York, Geneva, and international field offices, have the authority to investigate individual rights cases that are presented to it. Although the High Commissioner is an independent expert, the cost of running the OHCHR means that 60% of her/his budget needs to come from voluntary contributions from Member States and other donors. Because so much of the funding relies on the generosity of certain countries, and the person appointed High Commissioner must be approved or reapproved every four years by the General Assembly, there can be political constraints on the style and emphasis of the High Commissioner's advocacy.

Since the office was established in 1993, there have been seven High Commissioners. The current High Commissioner is HRH Prince Zeid Ra'ad al Hussein of Jordan.<sup>91</sup> Since his appointment, Prince Zeid has made several well-publicized statements condemning religious extremists who resort to violence, particularly in the wake of the murders of the Paris cartoonists at Charlie Hebdo.<sup>92</sup>

Human rights reports, petitions, and complaints from individuals to the High Commissioner are submitted through the Special Procedures Division of the Human Rights Council.

#### **(d) The UN Human Rights Council**

The UN Human Rights Council, created by the UN General Assembly in 2006, is composed of 47 United Nations Member States which are elected by the UN General Assembly (the Human Rights Council replaced the UN Commission on Human Rights, which had been plagued by political controversies). The Human Rights Council assesses the human rights situation in all the countries that are party to the UN. Individuals and organizations may bring human rights violations to the attention of the Human Rights Council through its complaint procedures.

---

90 <http://at20.ohchr.org/achievements.html>

91 Prince Zeid bin Ra'ad was appointed by the UN Secretary-General to the position in June 2014.

92 The High Commissioner's Statement on human rights violations in Iraq, on Nov. 18, 2014: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15311&LangID=E>. The High Commissioner's Statement following the murders of the editors at Charlie Hebdo, on Jan. 9, 2015: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15469&LangID=E>

### (e) Special Procedures of the UN Human Rights Council: Special Rapporteurs and Working Groups

*The text below is excerpted from the UN Office of the High Commissioner for Human Rights<sup>93</sup>*

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. . . .

Special procedures are either an individual (called “Special Rapporteur” or “Independent Expert”) or a working group composed of five members, one from each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group. The Special Rapporteurs, Independent Experts and members of the Working Groups are appointed by the Human Rights Council and serve in their personal capacities. They undertake to uphold independence . . . impartiality, honesty and good faith. They are not United Nations staff members and do not receive financial remuneration. The independent status of the mandate-holders is crucial for them to be able to fulfill their functions in all impartiality.

With the support of the Office of the UN High Commissioner for Human Rights (OHCHR), Special Procedures undertake country visits; act on individual cases. . . by sending communications to States; conduct thematic studies and convene expert consultants, contributing to the development of international human rights standards; engage in advocacy and raise public awareness; and provide advice for technical cooperation. Special Procedures report annually to the Human Rights Council and the majority of the mandates also report to the General Assembly.

As of November 1, 2014, there were 39 thematic and 14 country mandates. Some examples include the ‘Working Group on the issue of discrimination against women in law and in practice,’ the ‘Special Rapporteur on the right to education,’ and the ‘Special Rapporteur on violence against women, its causes and consequences.’<sup>94</sup>

---

93 Excerpted from the Office of the High Commissioner’s Web page: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

94 See Appendix G for a longer list of selected UN Experts, Special Rapporteurs, and Working Groups addressing human rights.

---

### Questions for Group Discussion:

- What is the advantage of having so many different human rights mechanisms, procedures, and experts working on rights issues at the UN? What might be some of the disadvantages?
- What could make the Special Rapporteurs' or Independent Experts' positions politically sensitive?
- Can an individual High Commissioner or Special Rapporteur avoid political issues and debates and simply address human rights violations outside of their political context? Why or why not?

---

### Reading Assignments:

#### Special Rapporteur on Violence against Women Responds to a Complaint from Bahrain

*The staff at the Office of the High Commissioner for Human Rights received a complaint from a woman in Bahrain that the local judges' interpretation of Shari'a law favored men in cases of divorce and custody. In August 2008, the Special Rapporteur on Violence against Women, jointly with the Special Rapporteur on the Independence of Judges and Lawyers, sent an allegation letter to the government in Bahrain demanding a response. The Bahrain government replied. The following is a synopsis of the allegation letter and the Bahrain government's response:*

#### Excerpts from the Report to the General Assembly from the Special Rapporteur May 2009<sup>95</sup>

##### **In the Special Rapporteur's Allegation Letter:**

The Special Rapporteur on Violence against Women noted that in the absence of a family code, judges [in Bahrain] seemed to appear to decide cases according to their personal interpretation of Shari'a, often favoring men. The Committee against Torture cited the broad discretionary powers of Shari'a courts in the application of the law to cases relating to personal status cases and recommended that Bahrain adopt a Family Code.

The Special Rapporteur brought to the attention of the Government, the case of Ms. S-, a Bahraini citizen, divorced from her husband, with whom she had a daughter. When the girl reached seven years of age, her father filed a case at a Shari'a court to obtain the guardianship of his daughter. It is reported that according to Shari'a Law, guardianship of a child who reaches seven is transferred from the mother to the father. . .

Both parties reached an informal agreement for the mother to keep the daughter, with an increased number of visits by the father. However, during the hearing held on 29 June 2008, Ms. S-'s ex-husband alleg-

---

95 <http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.6.Add.1.pdf>

edly refused any agreement. It is reported that Ms. S- approached the Supreme Council for Women in April 2008, seeking legal aid and support. She filed a case, but since then has never heard back from the Supreme Council.

Ms. S- had also contacted the brothers and sisters of her ex-husband, who confirmed her allegations that he is mentally unstable. She also alleged that her ex-husband had sexually abused the child when she was 3 years old. She apparently has a medical certificate attesting to the abuse. It is reported that Ms. S- contacted the Child Protection Unit within the Ministry of Social Affairs. This Unit promised to provide an independent report to the Shari'a Court, based on observations and assessment of living standards at her home as well as at that of her ex-husband. It is however alleged that judges of Shari'a Courts are not obliged to follow any of the recommendations of the report.

### **The Government of Bahrain Responded to the Complaint:**

On 21 October 2008, the Government replied to the Allegation Letter. It stated that the husband of Ms. S- filed a suit against his wife before the competent Shari'a court, in which he demanded that his wife return to the marital home.

The Government maintained that the court delivered several relevant rulings. In the case in which the wife, Ms. S-, petitioned for a divorce from her husband, a judgment was delivered granting the wife a divorce. In the case in which the husband demanded his wife's return to the marital home, the court issued a judgment dismissing the petition on the grounds that the divorce rendered it void. In the case in which the wife petitioned for payment of the deferred part of the marriage gift (*mu'akkhar al-sadaq*), the matter was referred to the competent Shari'a court.

The Government of Bahrain further informed the Special Rapporteur that, with regard to the abduction of the child by the father, a judgment was issued finding the husband guilty of abducting the child, ordering him to pay a 200 dinar fine and granting the mother, Ms. S-, the right to retain custody of the child. . .

Concerning the regulations applied by the Shari'a courts on the guardianship of children upon divorce, the Government stressed that the courts followed the rules of the Islamic Shari'a in cases referred to them by the Sunni and Ja'fari divisions, and were essentially guided by the best interests of the child, which constituted the basis of all measures taken in accordance with the Islamic Shari'a and the Convention on the Rights of the Child.

Moreover, concerning the adoption of a family code, the Government of Bahrain stated that the Ministry of Foreign Affairs and the bureau of the United Nations Development Program (UNDP) in the Kingdom had signed a project document to support an action plan to follow up on the implementation of the Government's voluntary commitments and pledges to the Human Rights Council.



Finally, the Government presented a timetable for the development of a draft law on the family, and a process to ensure its adoption and implementation with the assistance of governmental and non governmental stakeholders that are members of the committee.

---

### Questions for Group Discussion:

- How do you think the Allegation Letter from the Special Rapporteur to the government of Bahrain helped Ms. S-, or other women like her in similar situations?
- Do you think the government adequately addressed the concern that Shari'a courts favor men? Why or why not?
- In response to questions about the fairness of guardianship decisions and the need for the adoption of a family code, the government of Bahrain, "presented a timetable for the development of a draft law on the family, and a process to ensure its adoption and implementation with the assistance of governmental and non-governmental stakeholders that are members of the committee." Upon learning this information, what follow-up would you suggest for women's rights advocates in Bahrain? What would you want to know? Why?

---

### Team Exercise:

*"Special procedures mechanisms are the most accessible means of redress. At absolutely no cost to the petitioner, there is no need to exhaust internal remedies as with treaty-body complaint mechanisms such as CEDAW's Optional Protocol. Most complaints [to Special Rapporteurs] are submitted by individuals or groups themselves, with no need for legal literacy or a lawyer's assistance."*

*Yakın Ertürk*

*UN Special Rapporteur on Violence against Women, 2003-2006*<sup>96</sup>

Break the group into teams of three or four participants. Ask each team to read the information in the text box on the next page<sup>97</sup> about the mandate of the Special Rapporteur on Violence against Women, its Causes and Consequences.

Each team will write the *first draft* of a complaint to the Special Rapporteur. The complaints should be short and concise, approximately 400 words or less (two to four paragraphs). Preferably, participants will report on a human rights violation about which they have some knowledge either from personal experi-

---

96 In September 2011, Ertürk was appointed to the International Independent Commission of Inquiry on Syrian Arab Republic, on which she served until end of March 2012. Since November 2009, she has been serving on the European Council, Committee for the Prevention of Torture (CPT). She is a member of WLP's Board of Directors.

97 This information is from: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>



ence or from witnessing the violation first-hand. Stories from the news or other reporting are fine to use as well.

When the teams have completed their draft complaints, the group should reconvene and share what they have written. Participants can be encouraged to take their drafts home and edit them for grammar and accuracy, then forward them to the Special Rapporteur.

The reports should include:

- Whom the report is from – with information as specific as the writer feels safe using. If the petitioner(s) is/are reluctant to give their name, descriptions such as “a citizen of ...” and “student at .... School” with the location, will do.
- Whose rights were violated – be as specific as possible, with names, ages, genders, nationalities, etc. if possible; and when the violations took place (what dates or over what period of time, and whether there is a risk of the violations reoccurring).
- Whether the victim(s) know that a report is being sent to the Special Rapporteur on their behalf.
- A description of the events surrounding the human rights violation and the consequences of the violation(s).
- Identification, to the best of your ability, of who is responsible for the rights violation. If it is a particular law or policy, identify the law or policy. Give as full an explanation as possible about who and/or what you think allowed this violation to occur.
- Whether you know if the incident(s) was/were reported to the relevant state authorities. If you do not know, explain that.
- Whether you and/or the victims believe that she/they were specifically targeted because of their sex.
- What remedy do you recommend for the situation? What should the government do to help the victim? What is a short-term solution for the immediate victim or victims, and what are longer term solutions to help avoid the problem reoccurring?

---

### **Special Rapporteur on Violence against Women, Its Causes and Consequences**

Office of the High Commissioner for Human Rights  
OHCHR-UNOG, 1211 Geneva 10, Switzerland

[vaw@ohchr.org](mailto:vaw@ohchr.org), [urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)

Rapporteur’s Mandate:

- Seek and receive information on violence against women, its causes and consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women’s organizations, and to respond effectively to such information;

- Recommend measures, ways and means at the local, national, regional and international levels to eliminate all forms of violence against women and its causes, and to remedy its consequences;
- Work closely with all special procedures and other human rights mechanisms of the Human Rights Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;
- Continue to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women relating to the civil, cultural, economic, political and social spheres.
- In the discharge of the mandate the Special Rapporteur: Transmits urgent appeals and communications to States regarding alleged cases of violence against women; undertakes country visits; submits annual thematic reports.

The current UN Special Rapporteur on violence against women, its causes and consequences is Ms. Rashida Manjoo (appointed by the UN Human Rights Council in June 2009). Ms. Manjoo is a Professor in the Department of Public Law at the University of Cape Town, South Africa. She is the former Parliamentary commissioner of the Commission on Gender Equality in South Africa.

---

### **Questions for Group Discussion:**

- What would you hope that the Special Rapporteur would do upon receipt of your human rights complaint?
- What do you believe the Special Rapporteur's first, second, third, etc. steps should be once she or he has received your complaint?
- What could you do to follow up after you have sent the initial complaint?
- Why do think it is important and useful to send human rights reports to the Special Rapporteurs? What are the advantages?
- What do think the limitations are of what can be accomplished by reporting to a Special Rapporteur? What are the disadvantages?
- How else can you use the information you have put together in your complaint? Is there anywhere else you could send the information that would be helpful? What else might you do to advocate for the victim/victims' human rights?